



The State of New Hampshire
Department of Environmental Services



Clark B. Freise, Assistant Commissioner

April 12, 2017

The Honorable Chris Christensen
Chair, Resources, Recreation and Development Committee
Legislative Office Building, Room 305
Concord, NH 03301

RE: SB 73, An Act relative to septic requirements in conversions to accessory dwellings.

Dear Chair Christensen and Members of the Committee:

Thank you for the opportunity to testify on SB 73. This bill defines a “single family residence” and also exempts the conversion of existing bedrooms in a single family residence to an accessory dwelling unit (ADU) from the requirement for plans or specifications pertaining to individual sewage disposal systems (ISDS). The New Hampshire Department of Environmental Services (NHDES) opposes this bill.

This bill defines a “single family residence” as “a stand-alone dwelling or stand-alone structure containing two housing units, such as duplex housing or a home with an accessory dwelling unit where title is held by one entity, at which no commercial activities are conducted.” It is the opinion of NHDES that a “single family residence” cannot be a structure that is able to support more than one family, especially when the statute governing accessory dwelling units (RSA 674:72) specifically states that a familial relationship is not required between the owner of the principal dwelling unit and the people living in the ADU. Further, Env-Wq 1000, The Subdivision and Individual Sewage Disposal System Design Rules (Rules), defines a “residence” as “a stand-alone single-family housing unit or a stand-alone structure containing two housing units, such as duplex housing or a home with an in-law apartment, at which no commercial activities are conducted”. For purposes of these rules, the term includes two stand-alone single family housing units when connected, or proposed to be connected, to the same ISDS. NHDES would be amenable to amending the definition of “residence” to change “in-law apartment” to “accessory dwelling unit as defined in RSA 674:71”. NHDES believes this definition is a more encompassing and more accurate way to address this issue.

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This bill also exempts owners of single family housing units who wish to convert existing bedrooms in their principal dwelling unit to an accessory dwelling unit from submitting plans and specifications for the ISDS serving the structure to NHDES. NHDES believes that while the number of bedrooms may remain the same with a conversion to an ADU, the quantity of wastewater generated by the two individual dwelling units increases. Therefore, the ISDS should be modified to accommodate that additional load.

NHDES has been working with Senator Feltes on this issue. In addition, a focus group including Senator Feltes, New Hampshire permitted ISDS designers (one of which is also a realtor), a septic tank pumper, the previous Subsurface Systems Bureau administrator (for a historical perspective), members of the New Hampshire Association of Realtors and NHDES staff was formed to discuss this matter. As a result of this effort, NHDES, working with Senator Feltes, has developed proposed rules which resolve the issues this bill is trying to address. NHDES suggests this bill be sent to interim study until these proposed rules can be adopted.

NHDES cannot support this bill because it does not adequately address current NHDES ISDS design requirements. A substandard system may lead to premature failure of the septic system, causing potential harm to human health and the environment. NHDES further believes that there is a consumer protection component to be considered since a system that fails prematurely would be a substantial financial burden on the owner to replace the system.

Thank you again for the opportunity to comment on SB 73, Should you have further questions or need additional information, please feel free to contact either Robert Tardif, Acting Administrator, Subsurface Systems Bureau (603-271-2904, robert.tardif@des.nh.gov), or Rene Pelletier, Assistant Director, Water Division (603-271-2951, rene.pelletier@des.nh.gov).

Sincerely,



Clark B. Freise

Assistant Commissioner

cc: Sponsors of SB 73 : Senator Avard, Senator Regan, Senator Giuda, Senator Woodburn, Representative McGuire, Representative O'Day, Representative Carr, Representative Burt, Representative Weyler